IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.1521 OF 2002

Gyanprakash K. Shukla ..Petitioner.

Vs.

Deputy Collector & anr. ..Respondents.

....

Mr.A.R.Pande for the Petitioner.

Mr.Denzil D'Mello, AGP for the State.

...

CORAM : DR.D.Y.CHANDRACHUD, J.

15th April, 2005.

P.C. :

1. The Maharashtra Slum Areas (Improvement Clearance and Redevelopment) Tribunal has dismissed an appeal challenging the declaration of a slum in a notification dated 29th September, 1997. The notification which has been issued under Section 4 of the Maharashtra Slum Areas Improvement Clearance and Redevelopment Act, 1971 enlists CTS Nos.45 Part, 48 Part, 48/9, and 48/10 together admeasuring 1863.63 sq.mtrs. as a slum area. The challenge by the Petitioner has been rejected by the impugned

order dated 30th April, 2002.

2. On 22nd July, 2002, an interim order was passed by this Court by which the Deputy Collector (Encroachment) and competent authority was directed to carry out a survey and to file an affidavit in regard to the presence of amenities in the area which forms the subject matter of dispute. Accordingly, an affidavit has been filed by the Deputy Collector stating that the office of the surveyor carried out a survey on 29th August, 2002 in respect of the land bearing CTS No.45 (part) and 48 (part) at Bhandarkar wadi, Village Majas. During the course of the survey, it was found that the following amenities existed on the land :

Basic amenities required		Amenities provided	Short fall of amenities
Tenants	WCS 8	12(M.H.B.)	Nil
285	Tap 4	each structure	
	Light	Nil	
	Passage	Yes	
	Gutter	Yes	

3. It has been stated in the affidavit that there

are four chawls with 57 structures on the land. W.Cs. have been provided by the Maharashtra Housing Board. There are four water connections, one provided by the Petitioner and three by tenants. There is a separate electricity connection in all the structures. The affidavit notes that there are wide gallies and passages/pathways in the chawl. However, the facility of road light was not available and there are open and narrow gutters for waste water. Counsel appearing for the Petitioner states that since the filing of the affidavit, facilities in respect of road lights have been provided by the Petitioner.

4. Having regard to the aforesaid factual situation which emerges from the affidavit which has been filed before the Court on 9th September, 2003, I am of the view that it would be in the interest of justice if the challenge to the slum declaration is considered afresh by the Tribunal after notice to all the parties. In the circumstances, the impugned order of the Presiding Officer of the Tribunal dated 30th April, 2002 is

quashed and set aside. Appeal 37 of 1999 shall stand remitted back to the Tribunal which shall pass fresh orders thereon after notice to all the concerned parties. The Petition is accordingly disposed of. No costs.